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| 08/809,340      | 05/06/1997  | PIETRO PADOVANI      | B-3289PCT615        | 7453             |

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EXAMINER

MACKEY, JAMES P

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 12/05/2002

44

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

08/809,340

Applicant(s)

PADOVANI, PIETRO

Examiner

James Mackey

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 5-21,23,25-30,43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) 11-13,15-21,23 and 25-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-10,14,43 and 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1. Claims 11-13, 15-21, 23 and 25-30 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 38.

Note that, although Applicant contends that claims 11-13, 15-21 and 23 should be examined with the elected species B (corresponding to Figures 19-22), each of these claims includes limitations directed to the non-elected species (e.g., resiliently deformable material, ratchets, suction orifices, two-diameter collar, receiving hole with smaller internal dimension, mechanical arrests, air jets, cup-shaped receiving component and push rod), and are therefore not properly included with the elected species having an annular collar with an interior dimension smallest in a region furthest from the exterior surface, as claimed in independent claim 43.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, line 2, "a truncated conical collar" is indefinite as to exactly how this relates to the "annular collar" as is now claimed in claim 43 (they appear to be the same collar).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 5-10, 14 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK Patent Application GB 2,263,660 taken together with Christine et al. (U.S. Patent 3,538,997).

GB '660 teaches the thermoforming apparatus substantially as claimed, including extraction pick-up means PA, 26, 27 for extracting thermoformed articles/containers from the female die and transferring the containers to conveying templates on a conveyor (see especially Figs. 14-23 and 32). GB '660 further teaches that the extraction plate and the conveying template have receiving seats for receiving and retaining the thermoformed containers, but does not teach that the receiving seat of the template is a receiving hole having an annular collar with an interior dimension smallest in a region furthest from the exterior surface of the template. Christine et al. teach a conveyor formed of plural templates 15, each template including plural receiving holes each having an annular collar 22 for retaining a container 35, the annular collar having an interior dimension smallest in a region furthest from the exterior surface of the template. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the receiving seats of the conveying template as a receiving seat with an annular collar having an interior dimension smallest in a region furthest from the exterior surface of the template, as disclosed in Christine et al., in order to more securely retain the thermoformed containers on the conveying template, and in order to allow the templates to be used for differently sized or shaped thermoformed containers by replacing the annular collars with differently sized/shaped collars. It would have been further obvious to a skilled artisan to have provided the conveyors of GB '660 as conventional chain conveyors (note Fig. 22).

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6. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB '660 taken together with Christine et al., as applied to claims 5-10, 14 and 43 above, and further in view of Beyer-Olsen et al. (U.S. Patent 3,966,386).

GB '660 does not teach a carousel conveyor having a plurality of arms. Beyer-Olsen et al. teach an apparatus for removing molded articles from a molding device comprising a carousel conveyor having a plurality of arms, each arm being provided with a means for gripping the molded article and moving said article to another location. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify GB '660 by providing the conveyor as a carousel conveyor, as disclosed in Beyer-Olsen et al., in order to facilitate the conveying of the molded articles and to provide a compact arrangement for the apparatus.

7. Applicant's arguments filed Aug 20, 2002 have been fully considered but they are not persuasive.

Applicant argues that the non-elected claims 8, 11-13, 15-21 and 23 should be allowed if generic claim 43 is found allowable; however, even if claim 43 is found allowable, claims 11-13, 15-21 and 23 do not relate to the elected species as claimed in claim 43 (and as shown in Figs. 19-22). Note that the amendment to claim 8 renders that claim within the scope of the elected species, and therefore claim 8 has been rejoined with the elected claims.

Applicant argues that German Patent No. 3,928,301 does not teach the conveying templates having receiving holes provided with annular collars having a dimension smallest in a region furthest from the exterior surface of the template, as required in independent claim 43 as amended; however, such is disclosed in Christine et al., and it would have been obvious to a skilled artisan to have provided the conveying templates of GB '660 with such a conveyor in

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order to more securely retain the containers on the templates, and to allow for exchange of the collars to permit the conveyor to retain containers of different sizes or shapes.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

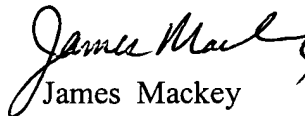
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan Silbaugh can be reached on 703-308-3829. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
James Mackey  
Primary Examiner  
Art Unit 1722

12/2/02

jpm  
December 2, 2002